

## Federal Election Commission

## § 100.93

### § 100.92 Candidate debates.

Funds provided to defray costs incurred in staging candidate debates in accordance with the provisions of 11 CFR 110.13 and 114.4(f) are not contributions.

### § 100.93 Travel by airplane or other means of transportation.

#### (a) Scope and definitions.

(1) This section applies to all campaign travelers who use:

(i) An airplane not licensed by the Federal Aviation Administration to operate for compensation or hire under 14 CFR part 121, 129, or 135;

(ii) Other means of transportation not operated for commercial passenger service; or

(iii) An airplane or other means of transportation operated by a Federal, State, or local government.

(2) Campaign travelers who use an airplane that is licensed by the Federal Aviation Administration to operate for compensation or hire under 14 CFR part 121, 129, or 135, or other means of transportation that is operated for commercial passenger service, such as a commercial airline flight, charter flight, taxi, or an automobile provided by a rental company, are governed by 11 CFR 100.52(a) and (d), not this section.

(3) For the purposes of this section:

(i) *Campaign traveler* means

(A) Any individual traveling in connection with an election for Federal office on behalf of a candidate or political committee; or

(B) Any member of the news media traveling with a candidate.

(ii) *Service provider* means the owner of an airplane or other conveyance, or a person who leases an airplane or other conveyance from the owner or otherwise obtains a legal right to the use of an airplane or other conveyance, and who uses the airplane or other conveyance to provide transportation to a campaign traveler. For a jointly owned or leased airplane or other conveyance, the service provider is the person who makes the airplane or other conveyance available to the campaign traveler.

(iii) *Unreimbursed value* means the difference between the value of the transportation service provided, as set

forth in this section, and the amount of payment for that transportation service by the political committee or campaign traveler to the service provider within the time limits set forth in this section.

#### (b) General rule.

(1) No contribution is made by a service provider to a candidate or political committee if:

(i) Every candidate's authorized committee or other political committee on behalf of which the travel is conducted pays the service provider, within the required time, for the full value of the transportation, as determined in accordance with paragraphs (c), (d) or (e) of this section, provided to all campaign travelers who are traveling on behalf of that candidate or political committee; or

(ii) Every campaign traveler for whom payment is not made under paragraph (b)(1)(i) of this section pays the service provider for the full value of the transportation provided to that campaign traveler as determined in accordance with paragraphs (c), (d) or (e) of this section. See 11 CFR 100.79 and 100.139 for treatment of certain unreimbursed transportation expenses incurred by individuals traveling on behalf of candidates, authorized committees, and political committees of political parties; and

(iii) Every member of the news media traveling with a candidate for whom payment is not made under paragraph (b)(1)(i) of this section pays the service provider for the full value of his or her transportation as determined in accordance with paragraphs (c), (d) or (e) of this section.

(2) Except as provided in 11 CFR 100.79, the unreimbursed value of transportation provided to any campaign traveler, as determined in accordance with paragraphs (c), (d) or (e) of this section, is an in-kind contribution from the service provider to the candidate or political committee on whose behalf, or with whom, the campaign traveler traveled.

(c) *Travel by airplane.* If a campaign traveler uses an airplane not licensed by the Federal Aviation Administration to operate for compensation or hire under 14 CFR parts 121, 129, or 135, the campaign traveler, or the political

committee on whose behalf the travel is conducted, must pay the service provider, no later than seven (7) calendar days after the date the flight began, for each such campaign traveler no less than the following amount for each leg of the trip:

(1) In the case of travel between cities served by regularly scheduled first-class commercial airline service, the lowest unrestricted and non-discounted first-class airfare;

(2) In the case of travel between a city served by regularly scheduled coach commercial airline service, but not regularly scheduled first-class commercial airline service, and a city served by regularly scheduled coach commercial airline service (with or without first-class commercial airline service), the lowest unrestricted and non-discounted coach airfare; or

(3) In the case of travel to or from a city not served by regularly scheduled commercial airline service, the normal and usual charter fare or rental charge for a comparable commercial airplane of sufficient size to accommodate all campaign travelers, including members of the news media traveling with a candidate, and security personnel, if applicable.

(d) *Other means of transportation.* If a campaign traveler uses any other means of transportation, including an automobile, train, or helicopter, the campaign traveler, or the political committee on whose behalf the travel is conducted, must pay the service provider within thirty (30) calendar days after the date of receipt of the invoice for such travel, but not later than sixty (60) calendar days after the date the travel began, at the normal and usual fare or rental charge for a comparable commercial conveyance of sufficient size to accommodate all campaign travelers, including members of the news media traveling with a candidate, and security personnel, if applicable.

(e) *Government conveyances.*

(1) If a campaign traveler uses an airplane that is provided by the Federal government, or by a State or local government, the campaign traveler, or the political committee on whose behalf the travel is conducted, must pay the governmental entity:

(i) For travel to or from a military airbase or other location not accessible to the general public, the lowest unrestricted and non-discounted first-class airfare to or from the city with regularly scheduled first-class commercial airline service that is geographically closest to the military airbase or other location actually used; or

(ii) For all other travel, in accordance with paragraph (c) of this section.

(2) If a campaign traveler uses a conveyance, other than an airplane, that is provided by the Federal Government, or by a State or local government, the campaign traveler, or the political committee on whose behalf the travel is conducted, must pay the government entity in accordance with paragraph (d) of this section.

(f) *Date and public availability of payment rate.* For purposes of paragraphs (c), (d) and (e) of this section, the payment rate must be the rate available to the general public for the dates traveled or within seven (7) calendar days thereof. The payment rate must be determined by the time the payment is due under paragraph (c) or (d) of this section.

(g) *Preemption.* In all respects, State or local laws are preempted with respect to travel in connection with a Federal election to the extent they purport to supplant the rates or timing requirements of 11 CFR 100.93.

(h) *Reporting.*

(1) In accordance with 11 CFR 104.13, a political committee on whose behalf the unreimbursed travel is conducted must report the receipt of an in-kind contribution and the making of an expenditure under paragraph (b)(2) of this section.

(2) When reporting a disbursement for travel services in accordance with this section, a political committee on whose behalf the travel is conducted must report the actual dates of travel for which the disbursement is made in the "purpose of disbursement" field.

(i) *Recordkeeping.*

(1) For travel by airplane between cities served by regularly scheduled first-class or coach commercial airline service, or for travel to or from a military base on a government airplane,

## Federal Election Commission

## § 100.111

the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and tail number (or other unique identifier for military airplanes) of the airplane used;

(ii) An itinerary showing the departure and arrival cities and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers; and

(iii) The lowest unrestricted non-discounted airfare available in accordance with paragraphs (c), (e) and (f) of this section, including the airline offering that fare, flight number, travel service, if any, providing that fare, and the dates on which the rates are based.

(2) For travel by airplane to or from a city not served by regularly scheduled commercial airline service, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and the size, model, make and tail number (or other unique identifier for military airplanes) of the airplane used;

(ii) An itinerary showing the departure and arrival cities and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers or security personnel; and

(iii) The rate for the comparable charter airplane available in accordance with paragraph (c), (e) and (f) of this section, including the airline, charter or air taxi operator, and travel service, if any, offering that fare to the public, and the dates on which the rates are based.

(3) For travel by other conveyances, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and the size, model and make of the conveyance used;

(ii) An itinerary showing the departure and destination locations and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers or security personnel; and

(iii) The commercial fare or rental charge available in accordance with paragraph (d) and (f) of this section for a comparable commercial conveyance of sufficient size to accommodate all campaign travelers including members of the news media traveling with a candidate, and security personnel, if applicable.

[68 FR 69593, Dec. 15, 2003]

EFFECTIVE DATE NOTE: At 68 FR 69593, December 15, 2003, § 100.93 was added, effective January 14, 2004.

### Subpart D—Definition of Expenditure (2 U.S.C. 431(9))

SOURCE: 67 FR 50585, Aug. 5, 2002, unless otherwise noted.

#### § 100.110 Scope.

(a) The term *expenditure* includes payments, gifts or other things of value described in this subpart.

(b) For the purpose of this subpart, a payment made by an individual shall not be attributed to any other individual, unless otherwise specified by that other individual. To the extent that a payment made by an individual qualifies as a contribution, the provisions of 11 CFR 110.1(k) shall apply.

#### § 100.111 Gift, subscription, loan, advance or deposit of money.

(a) A purchase, payment, distribution, loan (except for a loan made in accordance with 11 CFR 100.113 and 100.114), advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office is an expenditure.

(b) For purposes of this section, the term *payment* includes payment of any interest on an obligation and any guarantee or endorsement of a loan by a candidate or a political committee.

(c) For purposes of this section, the term *payment* does not include the repayment by a political committee of the principal of an outstanding obligation that is owed by such committee, except that the repayment shall be reported as disbursements in accordance with 11 CFR 104.3(b).

(d) For purposes of this section, the term *money* includes currency of the